

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  REFUNDS AND BACK BILLING	DOCKET NO. RMU-99-3
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**ORDER ADOPTING RULES**

(Issued November 29, 1999)

Pursuant to the authority of IOWA CODE §§ 17A.4, 476.1, 476.1A, 476.1C, and 476.3 (1999), the Utilities Board adopts the amendments attached hereto and incorporated by reference. These rules amend IOWA ADMIN. CODE 199-19.4(13)"a"(2), 19.4(13)"a"(3), 19.4(13)"b"(1), 19.4(13)"d," 19.4(13)"e," 20.4(14)"b"(1), 20.4(14)"b"(2), 20.4(14)"c," 20.4(14)"d," 20.4(14)"e," 20.4(14)"f," 21.4(6)"a," and 21.4(6)"c." New subrules 21.4(6)"d," 21.4(6)"e," and 22.4(3)"k" are also added. The reasons for adopting these amendments and new subrules are set forth in the attached notice of intended action.

**IT IS THEREFORE ORDERED:**

1. A rule making, identified as Docket No. RMU-99-3, is adopted.

DOCKET NO. RMU-99-3  
PAGE 2

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

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ATTEST:

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Executive Secretary

Dated at Des Moines, Iowa, this 29<sup>th</sup> day of November, 1999.

## **UTILITIES DIVISION [199]**

### **Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, 476.1C, and 476.3, the Utilities Board (Board) gives notice that on November 29, 1999, the Board issued an order in Docket No. RMU-99-3, In re: Refunds and Back Billing, "Order Adopting Rules."

The adopted rules amend 199 IAC 19.4(13)"a"(2), 19.4(13)"a"(3), 19.4(13)"b"(1), 19.4(13)"d," 19.4(13)"e," 20.4(14)"b"(1), 20.4(14)"b"(2), 20.4(14)"c," 20.4(14)"d," 20.4(14)"e," 20.4(14)"f," and 21.4(6)"a." The adopted rules also add new paragraphs 199 IAC 21.4(6)"d," 21.4(6)"e," 22.4(3)"k," and 22.4(3)"l."

On March 26, 1999, the Board issued an order to consider adopting amendments to the above-listed rules. The proposed rule making was published in IAB Vol. XXI, No. 22 (4/21/99) p. 2628, as ARC 8921A. Written statements of position were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), U S WEST Communications, Inc., the Rural Iowa Independent Telephone Association, MidAmerican Energy Company, IES Utilities Inc., Interstate Power Company, AT&T Communications of the Midwest, Inc., and the Iowa Association of Electric Cooperatives. An oral presentation was held on June 14, 1999.

The purpose of the rule making is to adopt a uniform time frame for refunds and back billings for electric, gas, water, and telephone utilities, while at the same time maintaining flexibility for the Board to fashion appropriate remedies in unusual circumstances. Originally, the Board proposed a ten-year time frame for refunds and back billings. All commenters opposed a period this long. After considering the comments, the Board adopts a five-year time period. Five years was favored by the majority of the commenters, including Consumer Advocate.

The Board generally believes a five-year period for refunds balances the customers' rights in the event of an error with the utility's costs of maintaining accurate, retrievable billing records for a potentially unlimited period. The proposed amendments provide, however, that the Board may order a different time period if the facts and circumstances warrant.

For utility back billings, the Board will also adopt a five-year period, but with limits on the maximum amount of the bill. The noticed rules provided the maximum back bill shall not exceed 50 percent of the billing for like charges in the 12 months preceding discovery of the error unless otherwise ordered by the Board. The limitation on amount was to protect customers from large back billings due to a utility error.

After considering the comments filed by utility commenters, the Board revises the adopted rule to drop the 50 percent limitation and instead limit the billing to like charges for 12 months unless otherwise ordered by the Board. The Board recognizes, as pointed out by utility commenters, that there may be

circumstances where back billing in excess of 12 months may be appropriate.

One example might be where a large customer should reasonably have known a billing error occurred. The rules give the Board flexibility to extend the time limits if circumstances warrant. Utilities will be expected to maintain appropriate records for a minimum of five years, and longer where appropriate.

The utility commenters believed the additional limitation on back billing made the periods for refunds and back billing asymmetrical. However, the Board notes that in back billing situations, the problem is usually the result of utility error, such as a non-registering meter or use of an incorrect multiplier. Customer exposure to back billing should generally be more limited when utility error is involved.

The adopted rules also increase the minimum amounts for back billing and refunds. These changes are merely to update the rules and recognize the high administrative costs of tracking and refunding or billing small dollar amounts. While the amounts are not as high as some commenters requested, the Board believes the amounts used strike an appropriate balance between utility and customer interests.

These amendments are intended to implement Iowa Code sections 476.1, 476.1A, 476.1C, and 476.3. The changes from the noticed rules are in response to the comments and, therefore, no further notice is necessary.

These amendments will become effective February 2, 2000.

The following amendments are adopted.

Item 1. Amend subparagraph 19.4(13)"a"(2) as follows:

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as ~~the time since July 4, 1963~~, one-half the time since the meter was installed or one-half the time elapsed since the last ~~previous~~ meter installation test unless otherwise ordered by the board.

Item 2. Amend subparagraph 19.4(13)"a"(3) as follows:

If the recalculated bills indicate that ~~\$3~~ \$5 or more is due an existing customer or ~~\$5~~ \$10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall upon demand made within three months thereafter refund the same.

Refunds shall be completed within six months following the date of the meter installation test.

Item 3. Amend subparagraph 19.4(13)"b"(1) as follows:

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, ~~\$3~~ \$5 for an existing customer or \$5

\$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Item 4. Amend subparagraph 19.4(13)"d" as follows:

d. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

Item 5. Amend subparagraph 19.4(13)"e" as follows:

e. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

Item 6. Amend subparagraph 20.4(14)"b"(1), introductory paragraph, as follows:

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed

that the error has existed for the shortest time period calculated as ~~the time since July 4, 1963~~, one-half the time since the meter was installed, or one-half the time elapsed since the last ~~previous meter installation~~ test unless otherwise ordered by the board.

Item 7. Amend subparagraph 20.4(14)"b"(2), introductory paragraph, as follows:

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last ~~previous~~ meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the Board.

Item 8: Amend subparagraph 20.4(14)"c" as follows:

*c. Refunds.* If the recalculated bills indicate that ~~\$4~~ \$5 or more is due an existing customer or ~~\$2~~ \$10 or more is due a person no longer a customer of the utility, the tariff shall provide refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation found to be in error. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.



Refunds shall be completed within six months following the date of the metering installation test.

Item 9. Amend subparagraph 20.4(14)"d" as follows:

*d. Back billing.* A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$4 \$5 for an existing customer or ~~\$2~~ \$10 for a former customer. All recalculations resulting in an amount due equal or greater than the tariff specified minimum shall result in issuance of a back bill.

Back billings shall be rendered no later than six months following the date of the metering installation test.

Item 10. Amend subparagraph 20.4(14)"e" as follows:

*e. Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

Item 11. Amend subparagraph 20.4(14)"f" as follows:

*f. Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may

provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

Item 12. Amend subparagraph 21.4(6)"a" as follows:

a. *Fast Meters.* Whenever a meter in service is tested and found to have over-registered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If the period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than ~~(\$1)~~ \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

Item 13. Adopt new subparagraph 21.4(6)"d" as follows:

d. *Overcharges.* When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the customer. The time period

for which the utility is required to adjust, refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

Item 14. Adopt new subparagraph 21.4(6)"e" as follows:

e. *Undercharges.* When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

Item 15. Adopt new subparagraph 22.4(3)"k" as follows:

k. *Undercharges.* The time period for which a utility may back bill a customer for undercharges shall not exceed five years unless otherwise ordered by the board.

Item 16. Adopt new paragraph 22.4(3);"l" as follows:

l. *Overcharges.*

Refunds for regulated services may not be applied to unpaid amounts for  
unregulated services.

November 29, 1999

/s/ Allan T. Thoms

Allan T. Thoms  
Chairperson